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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re S.W. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

P.G.,

Defendant and Appellant.

B292347

Los Angeles County
Super. Ct. No. 18CCJP02698

APPEAL from orders of the Superior Court of Los Angeles County, Victor G. Viramontes, Judge. Affirmed.

Elizabeth C. Alexander, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Navid Nakhjavani, Principal Deputy County Counsel, for Plaintiff and Respondent.

Mother challenges the juvenile court's finding that four-year-old Daughter and three-year-old Son are dependent children of the court. She also appeals an order removing Daughter and Son from her custody. We affirm. Code references are to the Welfare and Institutions Code.

On April 27, 2018, the Department of Children and Family Services filed a petition on behalf of Daughter and Son under section 300, subdivision (b)(1). The petition stated Mother created a detrimental home environment and endangered the children's physical health and safety by leaving them in maternal Grandmother's care. Grandmother was a current abuser of alcohol, had a history of violence against her own family members, and substance abuse and mental health problems, including auditory hallucinations, dating back decades. At the jurisdictional/dispositional hearing, the juvenile court found the petition's allegations true and declared Daughter and Son dependent children of the court. The court removed the children from Mother's custody, ordered monitored visits, and ordered Mother to participate in parenting classes and individual counseling. The court placed Son in Father's custody and ordered the Department to place Daughter in foster care. The court declared Father the children's presumed father in an earlier hearing. Father was not Daughter's biological father but claimed to be Son's biological Father.

Mother argues no substantial evidence supported the court's finding that it had jurisdiction over Daughter and Son under section 300, subdivision (b)(1). She argues the record does not show she made inappropriate plans for the children's care by leaving them with Grandmother who had mental health issues and "was a current abuser of alcohol." This argument is incorrect.

Mother and children lived with Grandmother despite Grandmother's struggles with alcohol and "long history of mental health issues." Mother told the Department she did not know Grandmother's exact diagnosis but stated she did not "want to trigger [Grandmother] or get comfortable with her, [because] she will start to have an episode."

Grandmother's alcohol and mental health struggles endangered Daughter and Son. In May 2016 and July 2017, Mother called 911 because Grandmother threatened to stab her. During the 2017 incident, Daughter and Son were present. Also in July 2017, Mother called 911 because Grandmother had been drinking, was "highly agitated," and threw dishes at Mother, Daughter, and Son. Grandmother threatened to harm herself with a knife and threatened to attack anyone who entered the home.

In January 2018, Grandmother called the police claiming Mother had a strange man in her room. Mother told the police "Grandmother was delusional, that she thinks there's somebody in her bedroom." In March 2018, "a female contacted law enforcement because a female banged on the door requesting help and there was a person physically assaulting the children." Grandmother was intoxicated when the police arrived. Later in March 2018, Mother called the police because Grandmother was threatening to hurt herself. A few days later, Grandmother called 911 and said Mother was threatening her with a butcher knife. In April 2018, Grandmother called the police and said "she could hear somebody assaulting [Daughter] and hear [Daughter] saying, 'No, Mommy.'"

Mother has acknowledged the need to protect Daughter and Son from Grandmother. She told the Department she never left her children with Grandmother. "Until [we move out] I keep my kids with me at all times." But this was not true. The record shows Mother repeatedly left Daughter and Son in Grandmother's care.

On one occasion, Mother went to the store and left Daughter and Son with Grandmother and an uncle. When Mother returned, Grandmother “was going crazy” and “came in my room thinking someone was in there because she was hearing voices.” Mother contacted the police and the Psychiatric Mobile Response Team.

The court found it had jurisdiction over Daughter and Son based on the “volume of testimony indicating that the children were left alone in the grandmother’s care.” The Department included the following statements in its May 29, 2018 Jurisdiction/Disposition Report:

Grandmother: “[Mother] would leave the kids with me and wouldn’t tell me where she is going. She would just disappear for days and I wouldn’t know where she is . . . She would leave the kids with us sometimes for few days, and sometimes for weeks.”

Grandmother’s boyfriend: “The problem is that [Mother] would leave and wouldn’t tell us when she’ll be back . . . [Grandmother] has challenges and she is ill. I can’t take care of her and then the kids. Like I said, the problem is that [Mother] would leave the kids and would be gone for days.”

Father: “I don’t know why [Mother] would leave the kids with her mother and where would she go.”

Father’s girlfriend: “Every time we go to see the kids, they are with [Mother’s] mom alone and her mom would baby-sit them [¶] . . . [¶] From my experience with the family, knowing that her mother has issues and is [a] really bad alcoholic, having all these issues, [Mother] would still let her kids stay with her mom.”

In January 2018, Mother told the Department she intended to move out as soon as she received her tax return. But at the time of the jurisdictional/dispositional hearing in May, Mother had not moved. According to Grandmother, Mother “keeps saying she is moving out, every year and she gets her tax money and does not go

anywhere. She said she was moving March 2017 and she is still here.” It was also in January 2018 that Grandmother slapped Son, saying, “I can do what I want with him.” Grandmother also threatened Mother with a knife around the same time.

Mother lived with Grandmother and continued to leave Daughter and Son with Grandmother at the time of the jurisdictional/dispositional hearing. Given Grandmother’s current abuse of alcohol and her frequent resort to threats of violence against her family members, supervision of the children by Grandmother put the children at substantial risk of serious physical harm under section 300, subdivision (b)(1). Substantial evidence supports the court’s finding that it has jurisdiction over Daughter and Son.

For the same reasons, substantial evidence supports the court’s order removing Daughter and Son from Mother’s custody. Mother repeatedly left Daughter and Son in Grandmother’s care at the time of the jurisdictional/dispositional hearing. Mother and children also lived with Grandmother. The removal order was proper because it was based on proof that 1) Grandmother supervised the children while under the influence of alcohol and frequently threatened family members with violence; 2) Grandmother experienced auditory hallucinations, resulting in frequent police activity at the home; 3) Mother, by relying on Grandmother as the primary caregiver, was not providing appropriate care for Daughter and Son; and 4) Daughter and Son potentially would suffer harm if they remained with Mother under these circumstances. (*In re N.M.* (2011) 197 Cal.App.4th 159, 169–170.) The purpose of section 361, subdivision (c)(1) is to prevent harm to the children. (*Id.* at p. 170.) There was substantial danger to the children’s physical health, safety, protection, or physical or emotional well-being if they remained with Mother. (§ 361, subd.

(c)(1.) There were no reasonable means to protect the children without removal. (*Ibid.*) The juvenile court properly applied the statute to protect Daughter and Son.

DISPOSITION

We affirm.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.